

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

ANTHONY C. DOWELL,

Petitioner,

Case No. 3:21-cv-271

vs.

NORMAN ROBINSON, Warden,
London Correctional Institution,

District Judge Michael J. Newman
Magistrate Judge Michael R. Merz

Respondent.

ORDER AND ENTRY: (1) ADOPTING THE TWO REPORT AND RECOMMENDATIONS OF THE UNITED STATES MAGISTRATE JUDGE (Doc. Nos. 18, 21); (2) OVERRULING PETITIONER'S OBJECTIONS (Doc. Nos. 19, 22); (3) DENYING PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS (Doc. No. 3) WITH PREJUDICE; (4) DENYING A CERTIFICATE OF APPEALABILITY; (5) CERTIFYING THAT ANY APPEAL WOULD BE OBJECTIVELY FRIVOLOUS AND FINDING THAT *IN FORMA PAUPERIS* STATUS SHOULD BE DENIED ON APPEAL; AND (6) TERMINATING THIS CASE ON THE DOCKET

This civil case is before the Court on the Report and Recommendation (Doc. No. 18) and Supplemental Report and Recommendation (Doc. No. 21) issued by United States Magistrate Judge Michael R. Merz, to whom this case was referred pursuant to 28 U.S.C. § 636(b). Petitioner filed an objection to both Report and Recommendations. Doc. Nos. 19, 22. As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all filings in this matter, including Petitioner's objections.

Upon careful *de novo* consideration of the foregoing, the Court determines that the two Report and Recommendations (Doc. Nos. 18, 21) should be adopted and that Petitioner's objections (Doc. Nos. 19, 22) should be overruled. The Court agrees with Magistrate Judge Merz's

conclusions that Petitioner's action was filed outside of the statute of limitations, which was not tolled by a "properly filed" collateral attack. Doc. No. 18 at PageID 1086–88; Doc. No. 21 at PageID 1111–12. Accordingly, the Court: (1) **ADOPTS** the Reports and Recommendations of the Magistrate Judge (Doc. Nos. 18, 21) in their entirety; (2) **OVERRULES** Petitioner's objections (Doc. Nos. 19, 22); (3) **DENIES** Petitioner's petition (Doc. No. 3) **WITH PREJUDICE**; (4) **DENIES** Petitioner a certificate of appealability; (5) **CERTIFIES** that any appeal would be objectively frivolous and finds that Petitioner should be denied *in forma pauperis* status on appeal; and (6) **TERMINATES** this case on the Court's docket.

IT IS SO ORDERED.

Date: July 27, 2022

s/ Michael J. Newman
Hon. Michael J. Newman
United States District Judge